



भारत का राजपत्र

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सं. 13] नई दिल्ली, मार्च 20—मार्च 26, 2016, शनिवार/फाल्गुन 30, 1937—चैत्र 6, 1938

No. 13] NEW DELHI, MARCH 20—MARCH 26, 2016, SATURDAY/PHALGUNA 30, 1937—CHAITRA 6, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India

(Other than the Ministry of Defence)

विदेश मंत्रालय

नई दिल्ली, 16 मार्च, 2016

का.आ. 549.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, विदेश मंत्रालय के अधीनस्थ कार्यालय “क्षेत्रीय पासपोर्ट कार्यालय, बरेली” को, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है।

[सं. क्यू/हिंदी/621/18/2015]

हरकेश मीना, उप निदेशक (रा.भा.)

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 16th March, 2016

S.O. 549.—In pursuance of sub-rules (4) of Rule 10 of the Official Languages (Use for the Official Purpose of the

Union) Rules, 1976, the Central Government, hereby notifies the Subordinate Office “Regional Passport Office, Bareli” of the Ministry of External Affairs the 80% staff whereof have acquired working knowledge of Hindi.

[No. Q/Hindi/621/18/2015]

HARKESH MEENA, Dy. Director (OL)

भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

(ईआई अनुभाग)

नई दिल्ली, 16 मार्च, 2016

का.आ. 550.—दिनांक 19 अगस्त, 2013 के का.आ. 3403(अ) द्वारा भारत के राजपत्र में प्रकाशित भारी उद्योग विभाग द्वारा जारी आदेश के क्रम में सक्षम प्राधिकारी ने ऑटोमोबाइल और संबद्ध उद्योग विकास परिषद् (डीसीएएआई) के सदस्यों के नियुक्ति

के कार्यकाल को और एक वर्ष की अवधि अर्थात् 19 अगस्त, 2015 से 18 अगस्त, 2016 तक के लिए बढ़ा दिया है।

[फा. सं. 7(6)/2007-ईआई (3888)]

अजय कुमार गौड़, अवर सचिव (ईआई)

MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

(AEI SECTION)

New Delhi, the 16th March, 2016

S.O. 550.—In continuation of order issued by Department of Heavy Industry as published in the Gazette of India vide S.O. 3403(E) dated 19th August 2013, the competent authority has further extended the tenure of appointment of members of the Development Council for Automobile & Allied Industries (DCAAI) for a period of another one year i.e. from 19th August, 2015 to 18th August, 2016.

[F. No. 7(6)/2007-AEI (3888)]

AJAY KUMAR GAUR, Under Secy. (AEI)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 16 मार्च, 2016

का.आ. 551.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आल इंडिया रेडियो प्रसार भारती एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 171/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42011/77/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 16th March, 2016

S.O. 551.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 171/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the All India Radio, Prasar Bharti and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42011/77/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRIAVATAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 171/2015

Shri Aneesh & 11 others,
Through Bhartiya Bhawan
Nirman Labour Union,
H-II/1,2, Main Road Tigri(DSIDC),
New Delhi 110 062

...Workman

Versus

1. Civil Construction Wing,
All India Radio, Prasar Bharti,
Soochna Bhawan, CGO Complex,
Lodhi Road, New Delhi 110 003
2. M/s Era Infra Engineering Ltd.,
C-56/41, Sector 62, NOIDA
Gautam Budh Nagar,
Uttar Pradesh 201 309
3. Shri Munif, Sub-contractor,
M/s Era Infra Engineering Ltd.,
C-56/41, Sector 62, NOIDA
Gautam Budh Nagar,
Uttar Pradesh 201 309

...Managements

AWARD

Central Government, vide letter No.L-42011/77/2015-IR(DU) dated 21.07.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether termination of Shri Aneesh & 11 others (list enclosed with original application) without compliance of provisions of Industrial Disputes Act by Era Infra Engineering Ltd./Mr.Munif (Sub-Contractor) is just, fair and legal? If not what relief the workmen concerned are entitled to?

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimants opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimants as well as the management at the address provided by the appropriate Government. Notice was again sent to the claimant. However, the postal articles sent to the claimants were received back on both the occasions with the remarks ‘No such Address’ and ‘Left’. Hence, this Tribunal is left with no other option, except to pass a

'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : March 2, 2016

A.C. DOGRA, Presiding Officer

नई दिल्ली, 16 मार्च, 2016

का.आ. 552.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पोस्ट मास्टर जनरल नार्थ बिहार सर्किल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में ओद्योगिक अधिकरण, पटना के पंचाट (संदर्भ केस सं. 17 (सी)/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 03/03/2016 को प्राप्त हुआ था।

[सं. एल-40011/78/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 16th March, 2016

S.O. 552.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 17(C) of 2014) of the Industrial Tribunal, Patna now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Post Master General, North Bihar Circle and their workmen, which was received by the Central Government on 03/03/2016.

[No. L-40011/78/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference Case No. 17 (C) of 2014

04 of 2014

The management of Post Master General, North Bihar Circle, Muzaffarpur and their workman National Life Insurance Employees Association through Sri B.N.P. Srivastava, General Secretary, J.P. Colony, Chandwara, Muzaffarpur, Bihar.

For the management : Sri Nagdeo Paswan, Public Relation Inspector (Postal), Head Post Office, Muzaffarpur (Bihar)

Sri Sone Lal Ram, Public Relation Inspector (Postal Asst.), Head Post Office, Muzaffarpur (Bihar)

For the workman : Sri B.N.P. Srivastava, General Secretary

Present : Bipin Dutta Pathak, Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, the 24th February, 2016

By notification order No. L-40011/78/2013-IR(DU) New Delhi, dated- 06.02.2014 Govt. of India, Bharat Sarkar Ministry of Labour/Shram Mantralaya, New Delhi referred under clause (d) of sub-section (1) and sub-section (2A) of section-10 of the Industrial Dispute Act, 1947 (hereinafter to be referred to as 'the Act') the following dispute between The management of Post Master General, North Bihar Circle, Muzaffarpur and their workman National Life Insurance Employees Association through Sri B.N.P. Srivastava, General Secretary, J.P.Colony, Chandwara, Muzaffarpur, Bihar for adjudication to the Cent. Govt. Indus. Ttribunal-cum-Labour Court No.-2, Dhanbad. However, in the light of Govt. of India./Bharat Sarkar Ministry of Labour/Shram Mantralaya, New Delhi, letter vide order no.- Z-25025/4/2014-CLS-II dated- 07th May, 2014 the Cent. Govt. Indus. Ttribunal-cum-Labour Court No.-2, Dhanbad transferred this Industrial Dispute vide letter no.- LCT/2014/902 dated- 15 Septemebr, 2014 to State Industrial Tribunal, Patna.

SCHEDULE

"Whether the workman has earned right of absorption having been enegaged for a considerable period of time regularly even though on daily wages? And whether the management of Post Master General, Northern Region should give him a permanent regular employees status with immediate effect?

2. Written statement has been filed on behalf of the workman stating therein workman concerned, Sri Umesh Kumar has been and is in continuous service under the respondent at its Head Post Office, Muzaffarpur since December 1999 against permanent perennial vacant post of Sweeper, on daily wage basis. There has been never been any complain, whatsoever it may be, against him and his discipline, conduct, working culture and work knowledge, etc, rather all these have all along been appreciable at all times upto the entire satisfaction of all concerned. Sri Kumar's deals and performance, as a token of recognition, the then Senior Post Master granted temporary status to three such daily wager workmen including this concerned workman Sri Umesh Kumar, vide order no.- Sr. P.M./Misc/2002, dated- 09.08.2002. Document has been annexed with written statement and in serial no.- 1 serial no.- 4 one workman was immediately given the temporary status; whereas 2 workmen including the concerned workman, Sri Kumar, were not offered the same, as yet, for the reason best known to the respondent and for certain undue considerations. The concerned workman has been requested representing before the authorities

concerned from time to time to make his services permanent, but in vain. Representations has been enclosed with the written statement.

This weakest section of the workman has had to knock the door of Labour Forum, wherein also the respondent did not come to a judiciously justified and reasonable solutions in the ends of justice and adopted quite unfair labour practices with certain vested interests. This reference for adjudication to meet the ends of justice and fair labour practices by granting permanent status to the concerned workman. List of documents and name of witnesses submitted and prayer has been made (a) to absorb i.e make the services permanent of the workman concerned without any condition and delay whatsoever it may be, with retrospective effect. (b) to order for the entire benefits & notional benefits with time bound promotions, etc. (c) to restore all the reliefs etc. with retrospective effect. (d) to order for maintaining the status-quo in the meanwhile.

3. It appears that a petition has been filed on 25.08.2014 by Senior Post Master, Muzaffarpur in which it has been stated that Sri Umesh Kumar is working in daily wages basis in the in permanent post of sweeper excluding Sunday and holiday. Sri Umesh Kumar is working in daily wages basis not as permanent incumbent. Hence, there is no question regarding satisfaction/dissatisfaction as per departmental conduct rules.

Then senior Postmaster issued memo no.- Sr. PM/Misc/2002 dated- 09.08.2002 but no copy receipted by concerned branches. Hence, the wages are not drawn in regular bill of establishment. He is getting his wages on ACG-17 voucher prescribed by the departmental of Posts for contingent payment daily. His request cannot accepted as he is working as daily wages. His requested is not acceptable. Sri Umesh Kumar has been paid his wages at enhanced rate @ Rs. 220/- fixed by Government of India.

4. It appears that general secretary of the union filed rejoinder to the written statement dated- 26.08.2014 submitted by the respondent management.

5. It appears on 09.01.2015 written statement has been on behalf of the respondent (management). It has been stated since the person was engaged as daily wager not on regular term, the correct date and month is not confirmed. It has been stated that in respect of the matter that Sri Umesh Kumar was engaged from 1999. Correct date and months is not confined. It has further been stated that complainant Sri Umesh Kumar was to be paid on prorate basis of minimum of scale admissible to the SAFAI KARAMCHARI. As per order of the court and consent of Umesh Kumar the wages as per notification was paid with back arrear and he is receiving agreed wages as such. There is no dispute as to the rate between the employer and daily wager. In absence of any dispute in respect of the payable wages a proceeding instituted with reference

to such order dated- 09.08.2002 is not maintainable under section 20(3) of the Minimum Wages Act, 1948.

It has been stated that matter regarding conferment of temporary status to Sri Umesh Kumar. It has been admitted above that he has been working as daily wager from 1999. Department of posts, Govt. of India ordered vide 66-52/92-SPB-01 dated- 01.11.1995 amended by letter dated- 08.11.1995 that any engagement like casual labourers after 01.09.1993 is not subjected to be regularized in the department. Thus, therefore, the employer has no liability of conferment of Temporary Status to Sri Umesh Kumar. In regard absorption in permanent status of Sri Umesh Kumar. It has been stated that person on daily wages in department of post are not subject to recruitment for work of regular nature and it is not possible to give him employment in permanent status. The number of hours of work shall constitute a normal working day for an adult on daily wages is nine hours as per section 24 of Minimum Wages Act, 1948. Sri Umesh Kumar's service hours is less than eight hours. Moreover, he is engaged as SAFAI KARAMCHARI (excluding activities prohibited under the employment of manual scavengers and construction of dry latrines prohibition Act, 1993/ Notification no.-4991 dated 01.10.2008 issued under minimum rates of wages in scheduled employment 2009) and his service is utilised on payment of approved and agreed wage. It has further been submitted that once the daily wages is fixed at a certain figure it is no longer retains its character of being prorate of the monthly wages of otherwise. Now the claim of temporary status or regular employment is not concerned to the instant case as the matter of wages has already been settled and there exists no dispute.

6. It appears that one document Ext.-M has been exhibited on behalf of the management from which it appears that in the list of daily rated Mazdoors working of the vacant post of grade IV has been allowed to get minimum scale of pay of group "D" plus usual allowances admissible to the post with immediate effect. In this list name of Sri Umesh Kumar appear as sweeper, Muzaffarpur Head Office.

7. Ext.-W has been exhibited on behalf of the workman/union which is the petition filed by the management before Industrial Tribunal. In which it has been stated that Umesh Kumar is working as daily wages basis not in the permanent post of sweeper.

8. Four witnesses has been examined on behalf of the management M.W-1 Binay Kumar Verma, M.W-2 Sone Lal Ram, M.W-3 Om Prakash Srivastava and M.W-4 Hari Chandra Lal Karan.

9. Single witness has been examined on behalf of the workman who is Umesh Kumar, concerned workman.

10. M.W-1 Binay Kumar Verma is A.P.M Account (A/C). He has stated that he does not know workman Umesh

Kumar and no record is available of Umesh Kumar with him. This witness is working in his office at present post since 2009. Further he has stated that one safai karmi Umesh Kumar is working in his office and there is no complain against him.

In cross-examination he has stated that he was working in the department since 1982. In 1982 he was on the post of Assistant in divisional office, Muzaffarpur and from the year 2009 he is APM account in head office. In the year 2009 he was posted as accountant in head office and since then he APM accounts up till now. At present no sweeper is working in post office but safai work is done by daily wager. Prior to that one sweeper was working and name is of which not remembered by this witness.

He further stated that there was permanent sweeper working in the his office when he retired, may be stated after perusal of record. At present no sweeper is working, at present daily who is working as sweeper on daily wage is not known to this witness. This witness further stated that he maintains the account of payment and payment order is passed by officer and payment is made through treasury. Payment bill is sent by this witness to divisional office. One copy of the bill is kept by this witness and other bill is sent to the divisional office. Payment voucher is prepared by the person who receives payment. He does not see that who has prepared the voucher and whether voucher is correct or not. To avoid double payment this witness maintains this.

Further he has stated that order of payment is passed, then he calculate and compares the amount of voucher and Senior Post Master passes order to send it to treasury. Public relation inspector checks voucher thereafter Dy. Post Master also checks and counter signs the voucher. Officer of the concerned branch checks the voucher whether it is correct or not. This witness has no knowledge from which record concerned officer checks and verifies the voucher. Officers of the concerned branch sends all the voucher to Dy. Post Master who sends it to the treasury for payment and after payment voucher is sent to the this witness from treasury which is sent to divisional office by to this witness.

11. M.W-2 Sone Lal Ram is Assistant in account section in Head Post Office, Muzaffarpur. He has stated that letter dated- 09.08.2002 marked as Ext.-M was never seen by him.

In cross examination he has stated that he is posted in Head Post Office since 16.12.2014. Prior to that he was posted at kalwari post office. He worked in APM/Misc in head post office and since 21.02.2015 he is Assistant Accountant. Further he stated that in account office work of APM/Misc is done. Further he has stated that APM , Misc is separate section. Prior to 2014 what was correspondence is not known to him. Witness has no knowledge of earlier order or memo. Sweeper work is done

by daily wages sweeper who are Umesh Kumar and Raju Kumar. This witness was knowing J. Singh Senior Post Master. He further stated that the facts "The following daily wages mazdoor who are working on the vacant post of Gr. "D" are hereby allowed to get minimum scale of pay of a group "D" plus usual allowances admissible to the post with immediate effect" in this memo name of Umesh Kumar sweeper is mentioned. This witness further stated that the remained in head post office in 2-3-4 tenure and since then he is seeing Umesh Kumar. Further he stated that pay means salary and wages means mazdoori.

12. M.W-3 is Om Prakash Srivastava who was Assistant Post Master in Head Post Office, Muzaffarpur for the period from April-2013 to April-2015. Now he is Dy. Post Master no.-1. This witness has no knowledge about memo dated 09.08.2003 which has been marked as Ext.-M.

In cross-examination he has stated that he was appointed in head post office in 1978. He was public relation inspector from 2002 to 2004. This witness cann't tell the name of post master who was posted in the year 2002. Later on he has stated that Jamadar Singh was Head Post Master. He further stated that Umesh Kumar is working since about 2000 in post office as a coolie and he works as a sweeper. He does not get benefit of the Govt. leave also of Sunday and National holyday. He get wages @ morethan 200/- per day. When Jamadar Singh was post master, then this witness was PRI. This witness has stated that on Ext.-M J.Singh, Senior Post Master, Muzaffarpur HO has written but this witness cannot say whether it was issued by Jamadar Singh or not. Another officer may not issue letter of an officer. This witness has no knowledge about this Ext. Further he has stated that he does not know the two persons named in Ext. why have not been permanent while one has been one permanent. This witness has further no knowledge that to make permanent of the workman amount is taken. This witness has further stated that 3-4 years before news was published that CBI has lodged case against some officer and some workers. The reality is not know to him.

13. M.W-4 is Hari Chandra Lal Karan who is working in Head Post Office, Muzaffarpur on the post of Postal Assistant. He has stated that he is working since 2nd December, 1987 and he is posted in head post office since 7th September, 2011 and at present he is working in staff section. Further he has stated that Umesh Kumar is working in his office on daily wages. This witness has no knowledge that Jamadar Singh issued memo to make him permanent.

In cross-examination he has stated that in staff section register is maintained for payment of daily wages. Daily wage's payment attendance of daily wager is maintained in mail office. He further stated that Umesh Kumar is working on daily wages. This witness is seeing him since 2011, prior to 2011 this witness has no

knowledge. This witness has heard the name of Jamadar Singh who has retired from post of superintendent from Motihari. Jamadar Singh was posted at Senior Post Master in Muzaffarpur. This witness has also stated about the application given by Senior Post Master T. K. Roy in Industrial Tribunal, Dhanbad on 25.08.2014 which has been marked as Ext.-W and in para-4 it has been stated that the then Senior Post Master had issued memo no.- PM/Misc/ 2002 dated- 09.08.2002 on 25.08.2014. This memo was not received in his section. In this memo name of three workers Sri Umesh Kumar, Sri Vishwa Vijay Kumar, Sri Brij Bhushan Prasad has been mentioned. Brij Bhushan Prasad is posted in store at present. This witness has no knowledge that prior to Umesh Kumar any one had given application in his office to make his permanent or not.

14. W.W-1 Sri Umesh Kumar is the workman Umesh Kumar who has stated that he passed eight class. He joined the service when he was studying in class-9. He is working in Head Post Office since 1999 as daily wager sweeper. Prior to him Gopal Ram was permanent sweeper who has retired. After his retirement there is no permanent sweeper until now and this witness is working all those work of permanent sweeper. This witness does not get leave of Sunday and Govt. holiday or national holiday. This witness has stated about Ext.-M which was given to him from department. Name of three person has been mentioned but until now, this witness have not been permanent. He gave several application in make permanent. In the mean time one person has been made permanent. There is no complaint about his work and duties.

In cross-examination he has stated that out of three persons mentioned in the memo Bhushan Prasad has been made permanent and he is working in postal store depot.

15. Written argument has been filed on behalf of the workman and reply of that has been filed on behalf of the management.

16. It has been stated that on behalf of the management that Umesh Kumar is working on daily wages mazdoor for last seven years as sweeper excluding Sunday and holidays. The question of date of joining of Shri Umesh Kumar in Head Post Office doesn't arise. He is working at daily wages mazdoor and when required. The period of work is occasional as and when required. The nature of work is sweeping and office premises. Hour of work in accordance with the actual requirement is not exceeding seven (7) hours a day. The rate of payment is allowed as fixed by the state Govt. time to time. The payment of wages paid by the forms ACG-17 prescribed by the Deptt. The question of maintenance of register doesn't arise. The matter regarding conformaton of temporary status to Sri Umesh Kumar has been raised. It has been admitted that he has been working as daily wages mazdoor from 1999. The Deptt. Of Posts Govt. of India ordered vide 66-52/92-SPB-I dated- 01.11.1995 amended by letter dated-

08.11.1995 that any engagement like casual labours after 01.09.1993 is not subjected to be regularized in the department. Thus therefore employer has no liability of conferment of temporary status to Sri Umesh Kumar. He was never appointed in Gr-D cadre, hence question of payment of pay and allowance of Gr-D does not arise. Letter dated- 01.11.1995 and 08.11.1995 has been annexed.

17. In the written argument filed on behalf of the deposition of the witness of all the witness has been dealt. It has been stated that Umesh Kumar is in continuous service since 1999 and no complaint against his working culture, discipline & conducted as admitted Umesh Kumar is working sweeper on daily wages. It has also been stated that according to the order no.- L-40011/78/2013-IR(DU) dated- 06.02.2014 “Whether the workman has earned right of absorption having been engaged for a considerable period of time regularly even though on daily wages? And whether the management of Post Master General, Northern Region should give him a permanent regular employees status with immediate effect.” has been dealt. It has also been stated that Umesh Kumar is working in continues service since 1999 and particularly from 2000 i.e the year in which the permanent sweeper retired from the services of management. Proving that Umesh Kumar is working on perennial permanent vacant post of sweeper since then, who is completed more than 240 days in each & every year continuously without any break. Ext.M-1 and W/1 has been dealt and some decision has been cited which will be dealt letter on.

FINDINGS

18. Matter in adjudication is “ Whether the workman has earned right of absorption having been enegaged for a considerable period of time regularly even though on daily wages? And whether the management of Post Master General, Northern Region should give him a permanent regular employees status with immediate effect?

In written statement it has been stated that Umesh Kumar is in continuous service since December, 1999 against permanent perennial vacant post of sweeper, on daily wages basis. There was no complain against him. Senior Post Mater granted temporary status to three such daily-wager. Out of them one was given temporary status and other were not offered the same. Which is apperented from Ext.-M in which it has been stated that by Mr. J. Singh, Senior Post Master, Muzaffarpur, Head Post Office that the following daily rated mazdoor who was working on the vacant post of Gr.-D are hereby allowed to get minimum wages of scale of Gr.-D + ususal allowance admissible to the post with immediate effect. The name of Umesh Kumar appears on the top of list. This order came into effect from 09.08.2002 which cann't be denied.

Ext.-W is the petition filed by Senior Post Master, Muzaffarpur in CGIT No.-2 Dhanbad and in para-4 it has been stated that the then Senior Post Master issued memo

no.- Sr. PM/Misc/2002 dated- 09.08.2002 as such Ext.-M have not been denied by the respondent management. Several voucher of ACG-17 has been filed to demonstrates the payment of workman. In written statement filed on behalf of the respondent management, only stated that Umesh Kumar was engaged as daily wager at not on regular term. In respect of Ext.-M only it has been stated that as per notification wages were paid to Sri Umesh Kumar. Management has stated about the circular dated- 01.11.1995 amended by letter dated- 08.11.1995 that any engagement like casual labourers after 01.09.1993 is not subjected to be regularized in the department. This is not a case of casual labour but a daily wager from whom. Work has been taken since 1999 against vacant perennial post which is apparent of from deposition of management. MW-1 has stated that one Umesh Kumar safaikarmi is working in his office. Further he stated that in his office permanent sweeper was working who has retired. As such it is apparent that Sri Umesh Kumar was working against the vacant permanent post. M.W-2 has stated that in cross-examination in para-5 that he was posted in head post office for 2-3 tenure and since then he is seeing Sri Umesh Kumar. In para-4 he has stated that daily wages sweeper Sri Umesh Kumar and Raju Kumar is working in department. So it can't be denied that Sri Umesh Kumar is not working since long. M.W-3 is assistant post master in Head Post Office, Muzaffarpur. He has stated that Jamadar Singh was Head Post Master. He has further stated that Sri Umesh Kumar is working since the year 2000 as a collie and as a sweeper. He is not getting benefits of Govt. holiday and national holiday. Jamadar Singh had not been called as a witness by the management.

M.W-4 is working in Head Post Office, Muzaffarpur. He has stated that Sri Umesh Kumar is working on daily wages. This witness also admitted this facts in para-4 of his cross-examination. As such facts stated in Ext.-M is written statement of the workman could not be controverted by the management.

Even the statement made in examination-in-chief have not been challenged in cross-examination of the evidence of workman. Three person were named in Ext.-M and name of Sri Umesh Kumar was on the top. One person has been made permanent and why Sri Umesh Kumar who is working against the permanent post have not been permanent.

19. Vol.-V of Supreme Court Labour and Services Digest [1986 (July)- 1990 (December) has been filed. In this daily rated casual labour in P & T Department doing work similar to that of regular workers of the Department- Scheme directed to be made for absorption of the casual labourers continuously working in the Department for more than one year. This was in view of (1988) 1SCC 872.

There is decision reported in AIR 1990 SC 371 in which it has been stated that workers not possessing initial minimum prescribed educational qualification at the time

of appointment- Gaining sufficient experience after many years of service- Confirmation cannot be refused to them on ground that they did not possess requisite qualification- they would be entitled to pay equal to persons appointed in regular basis. There is decision reported in 2001 IAD(S.C) 327 daily wager working for long period – regularization of – observations made and continuing ad-hocism for long deprecated and it has been held that it has also well settled, if the work is taken by the employer continuously from daily wage workers for a long number of years without considering their regularization for its financial gain as against employees legitimately claim, has been held by this court repeatedly as an unfair labour practice. Pattem shows work is to keep such persons hanging as daily rate workers. In such situation a legal obligation is cast on an employer if there be vacant post to fill it up with such workers in accordance with rules if any. As such Umesh Kumar is entitled to be regularised. Similar view has been expressed in 1996 (1) LLJ 1223. In 1992 (4) SCC 118 deals with long continuing in service gives rise to a presumption about the need for a regular post. In 2004(3) PLJR it has been held that daily wager working for long period on sanctioned post but have not been regularized depicts a sad picture of harassment to the inferior service employees- direction issued for regularization.

20. Considering all the aforesaid facts and circumstances and law cited in this case it is very clear that workman Sri Umesh Kumar is in continuous service and workman has right to absorption having been engaged for the considerable period of time and regularization even though working on daily wages and management of post master general, northern region should give him (the workman) a permanent regular employees status with immediate effects.

In view of this matter, answer is that workman Sri Umesh Kumar has earned right of absorption having been engaged for a considerable period of time regularly even though on daily wages and he was working against a permanent post from the date 09.08.2002 when he was granted temporary status. Management (Post Master General, North Bihar Circle, Muzaffarpur) is directed to give him a permanent status of a permanent regular employees with immediate effect with all consequential benefits after 09.08.2002.

Dictated & Corrected by me.

24-02-2016

BIPIN DUTTA PATHAK, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 553.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबद्ध

नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 71/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/159/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 553.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 71/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/159/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 71 OF 2015

PARTIES : Shri Prabhat Ranjan,
C/o Sh.Nawal Kishor Pd. Gupta,
Vill & PO: Karubigha,Gaya -803116.

Vs.

The CMD,
M/s Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad.-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking Joint
Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcionchip,
Shaikpet, Tolichowki,
Hyderabad-500008

Order No.L-42012/159/2015-IR(DU)
dt.06.10.2015

APPEARANCES :

On behalf of the Workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 1st Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/159/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Prabhat Ranjan in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference. But in a sudden change, the workman Prabhat Ranjan by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act, 2010 and the same is running for adjudication at Patna. So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure of the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs .

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned. Under the circumstances, the case is closed and, accordingly passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 554.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,

धनबाद के पंचाट (संदर्भ सं. 77/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/163/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 554.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 77/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/163/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 77 OF 2015

PARTIES : Shri Mohinish Chandra,
S/O Sri Prakash Chandra,
Vishweshraiya Nagar,
Near Bailey Road,
West Canal Road,
Near Pharmacy College,
Patna-801503

Vs.

The CMD,
M/s Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad.-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcionchip,
Shaikpet, Tolichowki,
Hyderabad

Order No. L-42012/163/2015-IR(DU)
dt.06.10.2015

APPEARANCES :

On behalf of the Workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 8th Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/163/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Mohinish Chandra in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference. But in a sudden change, the workman Mohinish Chandra by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act, 2010 and the same is running for adjudication at Patna. So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned. Under the circumstances, the case is closed and, accordingly, passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 555.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2,

धनबाद के पंचाट (संदर्भ सं. 78/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/151/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 555.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 78/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/151/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 78 OF 2015

PARTIES : Shri Rakesh Kumar,
S/o Late N.K.Sharan,
Nirmala Kunj, North Mandiri,
Patna-800001

Vs.

The CMD,
M/s Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad

Order No. L-42012/151/2015-IR(DU)
dt. 23.09.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 8th Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/151/2015-IR (DU) dt.23.09.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Rakesh Kumar in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference .But in a sudden change, the workman Rakesh Kumar by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act,2010 and the same is running for adjudication at Patna. So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs.

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned. Under the circumstances, the case is closed and, accordingly, passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 556.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 72/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/160/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 556.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 72/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/160/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 72 OF 2015

PARTIES : Shri Abhishek Kumar,
C/o Sh.Ashok Kumar Mishra,
At Shekhpura (SRK Nagar),
PO: Dhelwan, Patna

Vs.

The CMD,
M/s Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad

Order No. L-42012/160/2015-IR(DU)
dt. 06.10.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 3rd Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L- 42012/160/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Abhishek Kumar in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference. But in a sudden change, the workman Abhishek Kumar by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act, 2010 and the same is running for adjudication at Patna. So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs.

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned. Under the circumstances, the case is closed and, accordingly, passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 557.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 73/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/161/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 557.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 73/ 2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/161/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 73 OF 2015

PARTIES : Shri Gaurav Gunjan,
S/o Late C.N. Singh, 113,
S.K.Puri, Boring Road,
Patna -804453

Vs.

The CMD,
M/s Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad-500008

Order No. L-42012/161/2015-IR(DU)
dt. 06.10.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 1st Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/161/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Mukesh Kumar in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for filing rejoinder and appearance in the case to both litigant parties on the addresses emerged out in the said Reference. But in a sudden change, the workman concerned Gaurav Gunjan, though discrepancy spotted in workman's name in schedule and workman's address , by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon'ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act,2010 and the same is running for adjudication at Patna. So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs.

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon'ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned. Under the circumstances, the case is closed and, accordingly passed an order of 'No Dispute Award' in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 558.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अर्दस के प्रबंधतंत्र के संबंद्ध

नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 74/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/162/2015-आईआर (डीयू)]

पौ. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 558.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 74/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/162/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 74 OF 2015

PARTIES : Shri Mukesh Kumar,
S/o Sh. Sarvanand Singh,
Vill. Khaprail Chak,
PO : Parsa Bazar,
Patna -804453

Vs.

The CMD,
M/s. Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad

Order No. L-42012/162/2015-IR(DU)
dt. 06.10.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 8th Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/162/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Mukesh Kumar in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference .But in a sudden change, the workman Mukesh Kumar by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act, 2010 and the same is running for adjudication at Patna .So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned .Under the circumstances, the case is closed, and accordingly passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 559.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 75/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/164/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 559.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 75/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/164/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 75 OF 2015

PARTIES : Shri Devyanshu Pandey,
C/o Sri Sarat Chandra Pandey
Vill- Manikpur,
Dhansoi,
Distt-Buxar,
Patna (Bihar) 802128

Vs.

The CMD,
M/s. Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad-500008

Order No. L-42012/164/2015-IR(DU)
dt. 06.10.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 8th Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/164/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Devyanshu Pandey in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference .But in a sudden change, the workman Devyanshu Pandey by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act, 2010 and the same is running for adjudication at Patna .So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned .Under the circumstances, the case is closed and, accordingly, passed an order of “No Dispute Award” in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 560.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलेक्ट्रॉनिक्स कारपोरेशन ऑफ इंडिया लिमिटेड एंड अदर्स के प्रबंधतंत्र के संबंद्ह नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, धनबाद के पंचाट (संदर्भ सं. 76/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/165/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 560.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 76/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Electronics Corporation of India Ltd. and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/165/2015-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT:

Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 76 OF 2015

PARTIES : Shri Sunil Kumar,
S/O Sh.Rameshwar Pd.,
C/o Sri Satyendra Kumar,
Gautam Nagar, Janta Road,
Patna -800001

Vs.

The CMD,
M/s. Electronics Corp. of India Ltd.,
A Govt. of India Enterprises
(Dept. of Atomic Energy)
PO: ECIL, Hyderabad-500062

The Chairman & CEO
M/s. ECIL- Rapiscan Ltd.,
(A Govt. of India undertaking
Joint Venture)
8-1-305 & 306, 3rd Floor,
Anand Silcion Chip,
Shaikpet, Tolichowki,
Hyderabad-500008

Order No. L-42012/165/2015-IR(DU)
dt. 06.10.2015

APPEARANCES :

On behalf of the workman/Union : None

On behalf of the Management : None

State : Jharkhand Industry : Atomic Energy

Dhanbad, Dated the 8th Feb., 2016

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-42012/165/2015-IR (DU) dt.06.10.2015.

SCHEDULE

“Whether the action of the Management of ECIL to terminate the services of Shri Sunil Kumar in contrary to the mandatory provisions is valid? If not, what relief the workman is entitled for?”

2. Neither the workman nor the Representative from the Management side appeared since its registration and subsequently issued first formal Notice dt. 22.12.2015 for appearances in the case to both litigant parties on the addresses emerged out in the said Reference .But in a sudden change, the workman Sunil Kumar by filing a petition dt.03.11.2015 stated that the said dispute has also been filed before Hon’ble Industrial Tribunal, Patna as per provisions of Sec.2A (1 & 2) of the I.D. Amendment Act,2010 and the same is running for adjudication at Patna .So in view of the said dispute running in the Patna Tribunal, it will be proper to close the dispute. So with the filing of such petition, the Tribunal has no role further to play but to ask for closure the case in the natural interest of the workman and the Management too. The case is related to termination of services in violation of the mandatory provisions seeking reliefs

From perusal of the case record, it has been apparently clear the dispute does not have any meaning as long as for this Tribunal while the same is for adjudication before the Hon’ble Tribunal Patna as stated by the workman. Accordingly the Tribunal will go ahead for closure as it is no longer a dispute so far as this Tribunal is concerned .Under the circumstances, the case is closed and, accordingly, passed an order of ‘No Dispute Award’ in real terms.

R. K. SARAN, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 561.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओवरनाइट एक्सप्रेस लिमिटेड, नई दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के

पंचाट (संदर्भ सं. 36/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-40012/64/2009-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 561.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 36/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Overnite Express Ltd., New Delhi and their workman, which was received by the Central Government on 16/03/2016.

[No. L-40012/64/2009-IR (DU)]

P. K. VENUGOPAL, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

सी.जी.आई.टी. प्रकरण सं. 36/2014

भरत पाण्डेय, पीठासीन अधिकारी

रेफरेन्स नं. L-40012/64/2009-IR (DU) दिनांक 15/04/2014

Shri Kaushal Chandel S/o Shri Gangaram Chandel,
through Joint General Manager, Hind Mazdoor Sabha,
Bangali Colony, Chhawani,
Kota Rajasthan

V/s.

The Chief Development Officer,
M/s. Overnite Express Ltd., Overnite House,
00199-C, East Park Road,
New Delhi- 110005

प्रार्थी की तरफ से : श्री नरेन्द्र तिवारी –एडवोकेट

अप्रार्थी की तरफ से : श्री आर. के. शर्मा – एडवोकेट

: पंचाट :

दिनांक : 28.01.2016

1. केन्द्रीय सरकार द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 10 उप-धारा 1 खण्ड (घ) के अन्तर्गत दिनांक 15/04/2014 के आदेश से प्रेषित विवाद के आधार पर यह प्रकरण न्यायनिर्णय हेतु संस्थित है। केन्द्रीय सरकार द्वारा प्रेषित विवाद निम्नवत् है :—

2. ‘Whether the action of the M/s Overnite Express Ltd. in terminating the services of Shri Kaushal Chandel w.e.f. 25-08-2008 is legal and justified? If not, what relief the concerned workmen is entitled to?

3. स्टेटमेन्ट ऑफ क्लेम में दिये गये तथ्य के अनुसार संक्षिप्तः प्रार्थी का कथन है कि वह दिनांक 25.6.2007 से ऑपरेशन एक्जीक्यूटीव के पद पर कोटा में प्रोबेशन पर नियुक्त हुआ था। प्रार्थी ने छः माह का प्रोबेशन सफलतापूर्वक सम्पन्न किया जिसके परिणामस्वरूप नियोक्ता ने दिनांक 1.12.2007 से प्रार्थी को सेवा में कन्कर्फ किया। आगे प्रार्थी का यह कथन है कि कोटा में उसके द्वारा सफलतापूर्वक कार्य सम्पादित करने के कारण कोटा एवं जयपुर स्थित अधिकारीण प्रार्थी से रंजिश रखने लगे और अपने चहते लोगों को कार्य पर रखने की कोशिश में प्रार्थी को परेशान करने लगे जिसके सम्बन्ध में प्रार्थी ने नियोजक तथा अन्य अधिकारियों को पत्र लिखकर अवगत कराया। उक्त कारण से मैनेजर (एच.आर.) ने प्रार्थी का स्थानान्तरण जयपुर कर दिया। मैनेजर (एच.आर.) प्रार्थी का स्थानान्तरण करने के लिए अधिकृत अधिकारी नहीं है क्योंकि वह प्रार्थी के नियुक्त अधिकारी नहीं है।

4. आगे यह कथन है कि कोटा और जयपुर के अधिकारियों ने आपसी मिलीभगत से प्रार्थी को परेशान किया। प्रार्थी द्वारा यदि कोई वाउचर बनाकर दिया जाता था तो उसकी लिखित राशि को कम करके स्वीकार किया जाता था जबकि प्रार्थी के साथियों द्वारा प्रस्तुत उसी प्रकार के वाउचर बिना कटौती किये पास कर दी जाती थी। जयपुर और कोटा के अधिकारियों द्वारा मिलीभगत से परेशान करने के कारण दबाव में आकर श्री संजीव कुमार गौड़, श्री पूरणमल मीणा, श्री पवन खण्डेलवाल और श्री हर्षवर्धन सिंह आदि कर्मचारियों ने नौकरी छोड़ दी। प्रार्थी पर भी दबाव बनाकर नौकरी छोड़ने के लिए मजबूर किया गया लेकिन प्रार्थी नौकरी छोड़ने के लिए तैयार नहीं हुआ। प्रार्थी का स्थानान्तरण भी इसीलिये किया गया कि प्रार्थी नौकरी छोड़ दे। प्रार्थी का कथन है कि इण्डस्ट्रियल एम्प्लायमेन्ट एण्ड स्टैन्डिंग आर्डर्स रॉल्स के अन्तर्गत बनाये गये मॉडल स्टैन्डिंग आर्डर्स के रूल के अनुसार कर्मचारी का स्थानान्तरण उसकी सहमति के बिना नहीं किया जा सकता है बशर्ते कर्मचारी की नियुक्ति पत्र में स्थानान्तरण का प्राविधान न हो। प्रार्थी की नियुक्ति पत्र में स्थानान्तरण का प्राविधान नहीं था इसलिये प्रार्थी का स्थानान्तरण अवैध एवं अनाधिकृत है। कोटा और जयपुर के अधिकारियों द्वारा मिलीभगत से परेशान होकर दिनांक 4.10.2007 को प्रार्थी डिप्रेशन से ग्रसित हो गया था और वर्तमान में दिनांक 1.8.2008 से डिप्रेशन से ग्रसित है। प्रार्थी ने यह भी कहा है कि यदि यही हाल रहा तो वह किसी अन्य बिमारी से भी ग्रसित हो सकता है जिसकी जिम्मेदारी नियोजक के अधीनस्थ कोटा स्थित एरिया मैनेजर श्री दिनेश कुमार और जयपुर स्थित अधिकारी श्री औम शंकर श्रीवास्तव की होगी।

5. प्रस्तर 7 में प्रार्थी का कथन है कि जब वह बीमारी से ठीक होकर दिनांक 25.8.2008 को ड्यूटी पर उपस्थित हुआ और उपस्थिति पंजिया में हस्ताक्षर कर अपनी उपस्थिति दर्ज की तो उसकी उपस्थिति को काट दिया गया और ड्यूटी नहीं करने दी गयी तथा स्टाफ को निर्देशित किया गया कि वे प्रार्थी को कार्यालय में नहीं घुसने दें। इस प्रकार 25.8.2008 से प्रार्थी को सेवा से हटा दिया गया जो अवैध है। प्रार्थी ने दिनांक 25.6.2007 से 24.8.2008 तक नियोजक के यहां निरन्तर कार्य किया है और 240 दिन से अधिक की अवधि तक कार्य किया है। प्रार्थी का मामला धारा 2 (ओ.ओ.) के अन्तर्गत छंटनी की परिभाषा में आता है। नियोजक ने प्रार्थी को नौकरी से हटाये जाने के पूर्व

औद्योगिक विवाद अधिनियम, 1947 की धारा 25 एफ के अनुसार एक माह का नोटिस नहीं दिया और न इसके बदले में एक माह का वेतन दिया और न ही छंटनी मुआवजा दिया गया।

6. विपक्ष द्वारा नोकरी से हटाये जाने से पूर्व वरिष्ठता सूची नहीं बनायी गयी जिससे औद्योगिक विवाद नियम 1957 के नियम 77 का उल्लंघन हुआ। प्रार्थी को सेवा से हटाते समय उससे कनिष्ठ श्रमिक सेवा में मौजूद थे इस प्रकार औद्योगिक विवाद अधिनियम की धारा 25 जी का उल्लंघन हुआ। प्रार्थी को हटाये जाने के बाद उसे सेवा में पुनः आने का अवसर दिये बिना विपक्ष ने नये श्रमिक नियोजित किये जिससे औद्योगिक विवाद अधिनियम 1947 की धारा 25 एच सप्टिट औद्योगिक विवाद नियम 1957 के नियम 78 का उल्लंघन हुआ अतः प्रार्थी की याचिका स्वीकार कर उसे पुनः समस्त विवरण वेतन लाभ सहित सेवा की निरन्तरता सहित नियोजक की सेवा में पुनर्स्थापित किया जाय।

7. याची की याचिका के विरुद्ध वादोत्तर प्रस्तुत कर प्रार्थी को नियुक्ति पत्र जारी करना और 25.6.2007 से सेवा में एकजक्षूटिव ऑपरेशन के पद पर नियोजित करना स्वीकार किया गया है। दिनांक 1.12.2007 से सेवा में कन्फर्म करने के तथ्य को भी स्वीकार किया गया है। शेष समस्त कथन को अस्वीकार किया गया है। धारा 25 एफ औद्योगिक विवाद अधिनियम 1947 के प्राविधान के सम्बन्ध में यह कहा गया है कि विपक्षी पर लागू नहीं होते हैं। धारा 25 जी के सम्बन्ध में कहा गया है कि वह प्राविधान भी विपक्ष पर लागू नहीं होते हैं। याचिका में प्रस्तर 12 में धारा 25 एच और नियम 78 के सम्बन्ध में यह कहा गया है कि उक्त कथन स्वीकार नहीं है क्योंकि प्रार्थी को प्रतिपक्षी द्वारा सेवा से पृथक नहीं किया गया बल्कि उसका स्थानान्तरण किया गया और स्थानान्तरण के बाद विपक्षी ने ड्यूटी ज्वॉइन नहीं की जिसमें प्रार्थी का स्वयं का दोष है। यह भी कहा गया है कि विपक्ष पर प्रस्तर 12 में वर्णित प्राविधान लागू नहीं होते हैं क्योंकि विपक्ष द्वारा उक्त कानूनी प्राविधानों का उल्लंघन नहीं किया गया है तथा विपक्ष का कृत्य अनफैयर लेबर प्रेक्विट्स की परिभाषा में नहीं आता है।

8. आगे यह कथन है कि प्रार्थी का कोटा से जयपुर स्थानान्तरण किया जाना स्वीकार है तथा नियुक्ति पत्र में स्थानान्तरण का प्राविधान अंकित है। प्रार्थी द्वारा विपक्ष को बिमारी के सम्बन्ध में कोई लिखित सूचना नहीं दी गई और न ही बिमारी से सम्बन्धित कोई प्रपत्र प्रस्तुत किया गया। प्रार्थी की बिमारी के लिये विपक्ष किसी भी प्रकार जिम्मेदार नहीं है। विपक्ष का कथन है कि वास्तविकता यह है कि प्रार्थी को प्रतिपक्षी द्वारा दिनांक 25.8.2008 को सेवा से पृथक नहीं किया गया बल्कि इसके पूर्व दिनांक 29.7.2008 को प्रार्थी का स्थानान्तरण कोटा से जयपुर कर दिया गया था जिसकी सूचना प्रार्थी को उसके निवास स्थान के पते पर रजिस्टर्ड डाक से भेजी गयी थी और इसकी जानकारी कोटा कार्यालय को भी दी गई थी। तत्पश्चात जब प्रार्थी कार्य पर उपस्थित नहीं हुआ तो पुनः अनुस्मारक दिनांक 22.8.2008 को प्रेषित किया गया। अनुस्मारक पर भी प्रार्थी के द्वारा ड्यूटी ज्वॉइन नहीं की गई। दिनांक 02.9.2008 को प्रार्थी द्वारा ड्यूटी ज्वॉइन नहीं कर पाने के बाद एक अवसर और प्रदान करते हुए तीन दिवस में ड्यूटी ज्वॉइन करने के बारे में लिखा

गया। इसके बाद वादोत्तर की प्रस्तुति तक प्रार्थी प्रतिपक्षी के यहाँ ड्यूटी पर नहीं आया है। प्रार्थी का यह कहना कि प्रतिपक्षी द्वारा उसे सेवा से पृथक कर दिया गया है, नितान्त असत्य है। आगे यह कथन है कि प्रार्थी द्वारा 25.6.2007 से 24.8.2008 तक निरन्तर कार्य करने और 240 दिन से ज्यादा अवधि तक कार्य करने का कथन अस्वीकार है। प्रार्थी का प्रकरण धारा 2(ओ.ओ.) औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत नहीं आता है क्योंकि उसे सेवा से पृथक नहीं किया गया है बल्कि नियुक्ति पत्र की शर्तों के अनुसार स्थानान्तरित किया गया है। प्रार्थी की आवेदन पत्र सव्यय खारिज की जाए।

9. दिनांक 21.7.2014 को प्रार्थी उपस्थित था तथा उसने क्लेम प्रस्तुत की और 22.9.2014 को क्लेम के जवाब हेतु तारीख नियत की गयी। दिनांक 22.9.14 को प्रार्थी पक्ष उपस्थित था तथा विपक्ष की मुल्तवी स्वीकार कर जवाब हेतु 17.11.14 तिथि नियत की गयी। दिनांक 17.11.14 एवं अगली तिथि दिनांक 15.1.15 को याची पक्ष अनुपस्थित एवं विपक्ष उपस्थित था और विपक्ष को जवाब प्रस्तुत करने हेतु अगली तिथि दिनांक 2.3.15 तक अवसर प्रदान किया गया।

10. दिनांक 2.3.15 को विपक्ष ने वादोत्तर प्रस्तुत किया परन्तु याची पक्ष दिनांक 2.3.15 को भी उपस्थित नहीं आया। दिनांक 2.3.15 को अगली तिथि दिनांक 18.5.15 नियत कर प्रार्थी पक्ष को रिजायन्डर तथा अभिलेख प्रस्तुत करने हेतु अवसर प्रदान किया गया एवं यह आदेश किया गया कि याची पक्ष जवाब की प्रति प्राप्त करें।

11. दिनांक 2.3.15 के बाद 18.5.15, 17.8.15, 26.10.15, 30.11.15, 22.12.15, 7.1.16 और 20.1.16 तारीखें नियत की गयी परन्तु याची पक्ष उपस्थित नहीं आया। यह देखते हुए कि याची पक्ष निरन्तर दिनांक 17.11.14 से अपस्थित नहीं आ रहा है दिनांक 30.11.15 और 22.12.15 को विपक्ष ने विरोध किया कि याची को कब तक अवसर दिया जायेगा, अतः दिनांक 22.12.15 को याची पक्ष के विरुद्ध एकपक्षीय कार्यवाही का आदेश पारित किया गया और 7.1.16 को विपक्ष की एकपक्षीय साक्ष्य के लिए पत्रावली नियत की गयी। दिनांक 7.1.2016 को विपक्ष ने कोई साक्ष्य न प्रस्तुत करने का अभिकथन किया अतः विपक्ष का साक्ष्य समाप्त किया गया और दिनांक 20.1.16 बहस के लिए पत्रावली नियत की गयी। दिनांक 20.1.16 को उभयपक्ष अनुपस्थित रहे अतः पत्रावली पंचाट हेतु आरक्षित की गयी।

12. पत्रावली के अवलोकन से यह तथ्य प्रकाश में है कि याची पक्ष द्वारा याचिका के साथ कोई प्रलेख नियुक्ति पत्र आदि नहीं प्रस्तुत किया गया है। साक्ष्य में कोई शपथ-पत्र भी नहीं प्रस्तुत है और न ही याची व्यक्तिगत रूप से प्रतिपरीक्षा हेतु उपस्थित हुआ है। विपक्ष ने याची को दी गयी नियुक्ति पत्र, कन्फर्मेशन पत्र, स्थानान्तरण आदेश और स्थानान्तरण आदेश के अनुपालन हेतु दो अनुस्मारक पत्रों की फोटो प्रतियां प्रस्तुत की हैं। याची पक्ष द्वारा अपनी याचिका के समर्थन में कोई साक्ष्य न प्रस्तुत करने और निरन्तर अनुपस्थित रहने से यह जाहिर होता है कि प्रार्थी को इस मामले को आगे चलाने में कोई रुचि नहीं है। प्रार्थी ने कोई साक्ष्य नहीं प्रस्तुत किया है जिससे यह सिद्ध हो सके कि विपक्ष द्वारा प्रार्थी की सेवासमाप्ति की कार्यवाही अनुचित अथवा विरुद्ध

है। अतः मैं इस निष्कर्ष पर हूँ कि मैसर्स ओवरनाईट एक्सप्रेस लिमिटेड द्वारा दिनांक 25.8.2008 से प्रार्थी की सेवा समाप्ति की कार्यवाही उचित एवं विधि के अनुकूल है तथा प्रार्थी किसी अनुतोष को पाने का हकदार नहीं है। प्रार्थी की याचिका याचित अनुतोष हेतु तदनुसार खारिज की जाती है। न्यायनिर्णयन हेतु प्रेषित निर्देश का उत्तर उक्त प्रकार दिया जाता है। पंचाट तदनुसार पारित किया जाता है।

भरत पाण्डेय, पीठासीन अधिकारी

नई दिल्ली, 17 मार्च, 2016

का.आ. 562.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अफसर कमांडिंग 375 कॉय एएससी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार ऑद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ सं. 43/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28/01/2016 को प्राप्त हुआ था।

[सं. एल-14011/04/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 562.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 43/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Officer Commanding, 375, Coy ASC and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-14011/04/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 43/2015

Reference No. L-14011/04/2015-IR(DU) dated: 22.4.2015

The Secretary
M.E.S. Employees Union
Hanuman Hattha, Gali No.1,
Bikaner-334001.

V/s.

The Officer Commanding
375, Coy ASC (Sup) Type 'C' Pin 905375
C/o 56 APO, 56 A.P.O.

AWARD

22.2.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या प्रबंधन 375, कॉय ए एस सी (सप्लाई) टाईप 'सी' द्वारा 56 एपीओ बीकानेर का कर्मकार श्री विजय सिंह, मजदूर को मौखिक आदेश दिनांक 17.06.2008 के द्वारा नौकरी से निकाला जाना न्यायोचित एवं न्यायसंगत है ? यदि नहीं तो कर्मकार किस अनुतोष को पाने का अधिकारी है?”

2. Pursuant to the receipt of the reference order, registered notices were issued to the parties as per the order of the tribunal fixing 23.11.2015 for filing statement of claim. On 23.11.2015 none was present from applicant side. Notice by registered post sent to the applicant was served upon him for 23.11.2015 & acknowledgement attached with the notice has been received back which is available on record of the file. None was present from opposite party. Case was adjourned by tribunal suo moto fixing 8.12.2015 for filing statement of claim.

3. On 8.12.2015 both the parties were absent. Statement of claim was not filed. In the interest of justice case was adjourned by tribunal on its own motion fixing 21.1.2016 for filing statement of claim. On 21.1.2016 also both the parties were absent. Case was again adjourned by tribunal furnishing last opportunity to the applicant for filing statement of claim on 31.1.2016.

4. 31.1.2016 was holiday being Sunday, hence, case was taken up on 1.2.2016. None appeared from both the side on 1.2.2016 & again case was adjourned by the tribunal again furnishing last opportunity to the applicant for filing statement of claim on 11.2.2016. On 11.2.2016 none appeared from both the side & statement of claim was not filed. Looking into the fact that applicant does not appear to be interested in filing statement of claim opportunity for filing claim was closed & case was reserved for award.

5. It is pertinent to note that reference order dated 22.4.2015 was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of statement of claim & material evidence brought on record, tribunal is unable to record the finding on the reference sent to the tribunal for adjudication on merit. Accordingly, “No Claim Award” is passed in this matter. The reference under adjudication is answered accordingly.

6. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 563.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वेल्किन टेलीकॉम इंफ्रा प्राइवेट लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (आई.डी. संदर्भ सं. 28/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-40011/18/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 563.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Ref. No. 28/2015) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the M/s. Welkin Telecom Infra Pvt. Ltd. and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-40011/18/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 28 of 2015

Parties :

Employers in relation to the management of
M/s. Welkin Telecom Infra Pvt. Ltd.

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : Mr. Suchindram Bhattacharjee,
Management Ld. Counsel for M/s. Welkin
Telecom Infra Pvt. Ltd.

Mr. Basabjit Banerjee, Ld. Counsel
for M/s. Indus Towers Ltd.

On behalf of the : Mr. Partha Mukherjee, Ld. Counsel
Workman & Union

State : West Bengal Industry : Telecommunication

Dated: 8th March, 2016.

AWARD

By Order No. L-40011/18/2015-IR(DU) dated 05.06.2015/11.06.2015 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. Welkin Telecom Infra Pvt. Ltd. is justified in terminating the service of Sri Milan Fouzdar is legal and/or justified? If not, what relief the workmen are entitled to?”

2. When the case is taken up for hearing today, Ld. Counsel appearing for the workman as well as the union and the Ld. Counsel appearing on behalf of both the managements submit that the matter has been settled amicably between the parties out of the Tribunal and they have filed a memorandum of settlement. They pray for an Award in terms of the said joint petition of compromise/settlement.

3. On careful consideration of the said memorandum of settlement it appears that the terms and conditions of the settlement are fair, reasonable and the same are made for the interest of the parties.

4. Accordingly the said memorandum of settlement is accepted and an Award is passed in terms of the said memorandum of settlement which do form part of this Award as Annexure-A.

Kolkata, Dated
the 8th March, 2016.

Justice DIPAK SAHA RAY, Presiding Officer

Annexure - A

Memorandum of Settlement

[U/s.2 (P) read with section 18(3) of the Industrial Disputes Act, 1947]

Name of the parties	: (1) M/s. Welkin Telecom Infra Pvt. Ltd. 76/1, Golaghata Road, VIP Road, Kolkata- 700 048. (2) Paschim Medinipur Zilla security & Allied Services Union, Mir Bazar Mednipur, Dist-Paschim Medinipur.
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Representing the company	: (1) Mr. K.K. Roy Head H.I.R & Administration
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Representing the Union	: (1) Sri Manoj Dhar General Secretary of the Union . (2) Sri Milan Fouzder, the concerned workman.
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Short Recital of the case :

Whereas the company under reference is engaged as contractor by M/s Indus Tower Ltd. for operation and maintenance of Mobile Towers owned by said Indus Tower Ltd; situated at Medinipur West District.

Whereas one contract labour Sri Milan Fouzder was working under the contractor as named hereinabove and he was terminated from service w.e.f. 1st July, 2014 Sri Milan Fauzdar was working as M.T.A. in the company.

Whereas being aggrieved over the termination of service the union under reference raised one Industrial Dispute which has been referred by Ministry of Labour, Govt. of India before the C.G.I.T. and the case has been registered bearing reference No. 28 of 2015.

Whereas during the pendency of Dispute before C.G.I.T. at Kolkata negotiations were held on the issue pending before C.G.I.T. and after protected discussions it is agreed between the parties as under

1. That the contractor company has agreed and accordingly the concerned workman has been reinstated in service without any back wages on and from 1st May, 2015.

2. That in view of instant agreement the concerned workman and the union have no more dispute in the issue pending before this Hon'ble Tribunal.

3. That it has been agreed by and between the parties to file the instant memorandum of settlement before C.G.I.T. Kolkata with a prayer to pass necessary award in terms of this settlement with a view to drop the proceeding fully and finally since pending dispute does not exists further in terms of this settlement.

In witness hereof, the parties have signed this agreement on 15th September, 2015.

K.K. Ray

Sd. Manoj Dhar

For and on behalf of
M/s Welkin Telecom
Infra Pvt. Ltd.

Sd. Milan Fouzdar
For and on behalf of Union
as named hereinabove

WITNESSES:-

1. Sd. Tirthankar Ghosh.
2. Sd. Illegible.

नई दिल्ली, 17 मार्च, 2016

का.आ. 564.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कलावती बाल चिकित्सालय एंड अदर्स के प्रबंधतात्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट

(संदर्भ सं. 198/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42011/100/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 564.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 198/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kalawati Bal Chikitsalya and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42011/100/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRIAVATAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 198/2015

Shri Ram Nath Prasad,
S/o Shri Brinda Lal Prasad + 5 othrs,
C/o Bharitiya Engineering &
General Mazdoor Union,
Bharat Mill, Charkhi Gate Market,
Plot No.1, (near D Block), Karampura,
New Delhi-110 015 ...Workman

Versus

1. The Manager,
M/s. Kalawati Bal Chikitsalya,
Bangla Sahib Road,
New Delhi-110 001
2. M/s Vigilant Security Placement and
Detective Services Pvt. Ltd.,
P-23, Old Double Storey, Lajpat Nagar,
New Delhi-110 024 ...Management

AWARD

Central Government, vide letter No.L-42011/100/2015-IR(DU) dated 08.09.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the workmen, Shri Ram Nath Prasad and five others, entitled for reinstatement with effect from 01.01.2012? If not to what relief are they entitled to?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of

claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimants opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimants as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimants. Despite service of the notice, claimants opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the claimants are not interested in adjudication of the reference on merits.

4. Since the claimants have neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no other alternative, except to pass a 'No Dispute/Claim' award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

March 14, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 565.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बोर्ड ऑफ सेकेंडरी एजुकेशन, दिल्ली के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 328/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42012/97/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 565.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 328/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Board of Education, Delhi and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42012/97/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

IN THE COURT OF SHRIAVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, DELHI

ID No. 328/2011

Shri Nawab Singh,
S/o Shri Sohan Pal,
Ghas Mandi Town & Post Bagpat,
Uttar Pradesh-201 101 ...Workman

Versus

The Secretary,
Central Board of Secondary Education,
2, Samudain Centre, Preet Vihar,
Delhi-110 092 ...Management

AWARD

Reference under Clause (d) of Sub Section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 was received from the appropriate Government vide letter No.L-42012/97/2011-IR(DU) dated 10.10.2011 to the following effect:

"Whether the action of the management of Central Board of Secondary Education in removing Shri Nawab Singh S/o Shri Sohan Pal from the seniority list and consequent his removal from employment with effect from 28.04.2006 is legal and justified? What relief the workman is entitled to?"

2. Factual matrix as contained in the statement of claim shows that Central Board of Secondary Education (in short the management) had employed Shri Nawab Singh, the workman herein, as Daily Wage Junior Assistant and was being paid wages of around Rs.6000.00 per month. He put in more than 240 days and served the management most sincerely, honestly and diligently and did not give any chance of complaint during his entire tenure. He was being deprived of statutory benefits despite his persistent demands. His services were terminated illegally by the management on 28.04.2006. No information regarding regularization nor conducting of a test on 21.01.2011 was conveyed to him.

3. Pursuant to order dated 12.02.2004 of the Hon'ble High Court of Delhi, management prepared seniority list of daily wages workmen and the name of the workman herein figured on page 2 at serial no.29 and it was incumbent upon the management to have informed him about the test conducted being conducted on 21.01.2011. This act of the management amounts to violation of Article 156 and 157. Thereafter a fresh seniority list was prepared by the management in which his name was deleted. This action of the management is illegal, bad, unjust and malafide as the workman herein is a regular employee

having worked for 240 days in each calendar year and is in violation of Section 25F, G, H of the ID Act, 1947(in short the Act). His services terminated orally without assigning any reason, without service of charge sheet, memo, no departmental enquiry was conducted and no opportunity of being heard was given to him. He is unemployed since the date of his termination. Finally, a prayer has been made to reinstate him in service with all consequential benefits.

4. Demurral was made by the management taking various preliminary objections, viz. CBSE is an autonomous body, strict confidentiality is required to be maintained by the employees and the reference is much belated and suffers from delay and latches. The workman herein was a daily wager employed by the management from time to time as per the seniority list prepared by the management in accordance with the directions of the Hon'ble High Court. In April 2006 claimant was assigned duties of Junior Assistant in Regional Office, Delhi and was assigned duty in Examination branch, where he was found indulging in doubtful activity. Report to this effect was sent to the Controller of Examinations that services of the workman were no longer required and his services were discontinued with effect from 28.04.2006. Further management has denied the material averments contained in the statement of claim. It has been prayed that the claim be dismissed with costs.

5. Against this factual background, my learned predecessor vide order dated 28.02.2012, framed the following issues:

- (i) Whether the claimant has rendered continuous service of 240 days or more in preceding twelve months from the date of termination of his services, as contemplated by Section 25B of the ID Act?
- (ii) Whether the act of terminating services of the claimant amounts to retrenchment within the meaning of section 2(oo) of the ID Act?
- (iii) Whether the act of the management in terminating services of the claimant is violative of provisions of section 25F, 25G and 25H of the ID Act?
- (iv) As in terms of reference.

6. Claimant entered the witness box to testify facts. Ms.Dharini S. Arun, Deputy Secretary, unfolded facts on behalf of the management. No other witness was examined by either of the parties.

7. I have heard Shri Mohd. Shawaz, authorized representative for the claimant and Shri Sanjay Khanna, authorized representative on behalf of the management and my findings are as under:

Finding on Issue No.1

8. The first and foremost question in the case in hand is as to whether the workman herein has rendered 240 days of continuous service as required under Section 25B of the Act. In this regard, it is appropriate to refer to the pleadings of the parties. It is clear from the averments made in the statement of claim that the workman has specifically averred that he was employed in February 1996 as daily wage Junior Assistant and has rendered more than 240 days since the date of his appointment, in a calendar year. It is not out of place to mention here that the workman herein, alongwith other workmen filed a writ petition before the Hon'ble High Court of Delhi titled 'Bhoodev Sharma and others Vs. Union of India and Others', wherein direction was given by the Hon'ble High Court for preparation of seniority list of daily wage peons and Junior Assistants. There are also observations in para 10 of the above judgement that, in fact, seniority list was prepared without preparing a draft seniority list without inviting objections from the concerned workmen. It was against this background that the management was ordered to invite fresh objections and prepare seniority list in accordance with law and thereafter prepare final list after hearing objections from the affected employees.

9. Reply filed by the management in the present case also shows that the workman herein was working with the management as daily wager since 1998 as is evident from para 1 of the reply. He was employed as Junior Assistant on daily basis at Rs.143.00 per day. It is further averred that in-between services were discontinued because his credentials were found to be doubtful when he was working in a sensitive branch, i.e. Examination branch of Regional Office:Delhi. Resultantly, his services were discontinued/terminated in the year 2006 as the workman was found guilty of misconduct.

10. Claimant herein, Shri Nawab Singh, has examined himself as WW1 and stated that he was re-engaged in February 1997 for a period of 6 months and was appointed in 1998 on the strength of appointment letter Ex.WW1/2. He has made reference to the writ petition filed in the year 2004, which was decided vide Ex.WW1/4. Thereafter, management issued seniority list, copy of which is Ex.WW1/5. He has specifically deposed that he has worked for more than 240 days in 2000 and thereafter in 2002 and 2003. In 2003, he was issued fresh letter of appointment Ex.WW1/6 and Ex.WW1/7. He was again re-engaged in 2004 vide letter Ex.WW1/8. He has stated in his cross examination that his services were terminated in 2006 and he is unemployed since 28.04.2006. He has denied all other material suggestions put to him by the management. During the course of arguments, it was not disputed even on behalf of the management that after 1997, the workman was in the employment of the management and this fact has duly been admitted in para 1 of the written

statement also. When the workman has deposed that he has worked for more than 240 days in a calendar year, in that eventuality, it was incumbent upon the management to have produced the relevant record pertaining to his attendance. Since the workman, after 1997 has worked with the management till the date of his termination with a few breaks, as such, it is reasonable to hold that the workman was in continuous services as required under Section 25B of the Act. It is pertinent to note here that no evidence has been led by the management to the contrary. Accordingly, this issue is decided in favour of the workman and against the management.

Finding on Issue No.2 and 3

11. Both these issues are being taken up together for the purpose of discussion and they are inter-related and can be conveniently disposed of. It is clear from perusal of the seniority list Ex.WW1/5 that the name of the workman herein finds mention at serial number 39 of the said list and in the last column of the said list, i.e. date of initial engagement and period, it is mentioned '05.02.1996 to 05.05.1996'. It is thus clear that the workman herein in fact was initially employed in February 1996. Further memorandum Ex.WW1/1 issued by Regional Office:Delhi of Central Board of Secondary Education dated 05.01.1996 clearly shows that the name of the workman was sponsored by the Employment Exchange and interview for the post was held on 22.01.1996, as a result of which he was given employment for 89 days only. It was not disputed during the course of arguments that casual daily wagers, as per practice, was given employment for 89 days and if his conduct was found satisfactory, then such workmen would be re-employed by the management. Vide letter Ex.WW1/2 dated 03.01.1998, claimant herein was asked to give his consent to the Section Officer at CBSE, Community Centre for his appointment as Junior Assistant on daily wages. Workman herein reported for duties on 16.01.1998 in consequence to the above letter. Letter dated 16.01.1998 Ex.WW1/3 further shows that the workman was allotted duty at PMT unit to work as daily wager junior assistant with effect from 16.01.1998 till further orders. His qualification was mentioned as intermediate. Not only this, even thereafter, the workman was issued memorandum dated 17.02.2003 for appointment as Junior Assistant on daily wages and the workman herein joined duty in response to the above letter. There is another memorandum Ex.WW1/7 which shows that the workman alongwith other employees were asked to join duty at Preet Vihar within 10 days of receipt of the letter and the workman gave his joining within the stipulated period. Letter WW1/8 shows that the workman was employed as daily wager junior Assistant with effect from 06.02.2004 to 30.06.2004. There is another letter Ex.WW1/9 which shows that the workman herein, Shri Nawab Singh alongwith others was deputed in the office of Controller of Examinations on daily wage basis. This memorandum

WW1/10 dated 18.01.2005 again shows that the workman was in the employment of the management at Preet Vihar during the year 2005 and he joined duty in 2005 within 10 days as ordered by the management. Thus, it is clear from the documents discussed above that the workman herein was doing the job as daily wager junior Assistant in Examination department and lastly he was deputed for the job at Preet Vihar and remained there till his termination in 2006. It is clear from the reply filed by the management that the workman herein was employed as daily wager by Central Board of Secondary Education from time to time and appeared in the seniority list prepared in accordance with directions of the Hon'ble High Court and in April 2006 the workman was assigned duty as Junior Assistant at Regional Office:Delhi, Examination branch. It is clear from para 4 and 5 of the written statement that since the workman did not maintain secrecy and confidentiality in the ongoing work of preparing results of Class X and Class XII during the examination conducted by CBSE, the Joint Secretary, Regional Office informed the Controller of Examinations vide his note dated 26.04.2006 that services of the workman were no longer required in Regional Office:Delhi. Based on the said report, Controller of Examinations also recommended for discontinuation of services of the workman vide order dated 27.04.2006, which was confirmed by the competent authority. Accordingly, services of the workman were discontinued with effect from 28.04.2006.

12. It is neither in doubt nor in dispute that before order of termination or discontinuation of the job of the workman herein vide order dated 28.04.2006 no show cause notice was issued to the workman herein nor any explanation from him, in writing, regarding any kind of misconduct was sought by the officials of the management.

13. Shri Nawab Singh has stated in his cross examination that no notice or pay in lieu thereof was given to him, no memo was served or enquiry was conducted by the management nor any retrenchment compensation was paid. He has sought his reinstatement by moving a letter Ex.WW1/11. Thereafter, another letter Ex.WW1/12 was given to the management. It is clear from contents of the above two letters that service of the workman was terminated and his name was removed from the seniority list by the management.

14. Management, in order to rebut the case of the workman herein, examined Ms.Dharini S Arun, Deputy Secretary, CBSE, Regional Office:Delhi as MW1. She has tendered in evidence her affidavit Ex.MW1/A. The affidavit is on similar lines as the stand taken in the written statement. She has admitted that as per official record, the workman herein was initially engaged on 05.02.1996 and in that year, he was not engaged thereafter. Thereafter, he was engaged for a short period from 16.01.1997 to 18.02.1998. He served the management from 11.01.1999 to

31.03.1999. In the year 2004, the claimant was engaged from 06.02.2004 to 30.06.2004. Lastly he served the management from 04.01.2006 to 27.06.2006 and he was not engaged thereafter. To a question she has admitted that there is no document available on record as to what action was initiated on letter Ex.WW1/9. It is not out of place to mention here that vide letter dated 29.01.2004, Ex.WW1/9 it was desired by the Personal Assistant of Controller of Examinations that due to ongoing pressure of the compartment examination and other activities for preparation of next year's examinations, term of Shri Nawab Singh Junior Assistant alongwith two other workmen be extended for 3 months. This letter further proves that there was need to engage workmen on account of holding examinations etc. She has deposed in her cross examination that on account of doubtful credentials, workman herein was removed from service . She has made a further vital admission that the workman herein was not issued any notice before his termination. She was not knowing with whom he was talking. Further , she could not say whether any complaint was received against the workman during the period 1996 to 28.04.2006. It is pertinent to mention here the workman herein was personally known to Ms.Dharini S Arun, MW1. Though she stated that a note was received from Controller of Examination Shri Pawan Kumar regarding his conduct , but the said note is not produced on the file nor mentioned in the written statement. She further admitted that when some irregularity is committed by a daily wager, normally a memo is issued.

15. It is clear from the resume of evidence on record that no memo was issued to the workman herein before order of termination in April 2006 nor any explanation in writing was sought from the said workman. Admittedly, no enquiry of any kind was conducted before termination of services of the workman herein.

16. To my mind, gross violation of principles of natural justice has been caused to him. It is not the case of the management that no work was available with the management as a result of which services of the workman was dispensed with. Rather, due to pressure of work there was always need to deploy more workmen during conduct of examinations. Workman has not been paid any kind of retrenchment compensation or one month pay in lieu thereof before ordering his termination in April 2006.

17. Hon'ble Apex Court in a number of cases has highlighted the need for following principles of natural justice while taking detrimental action against employees or daily wagers. Constitution Bench of the Hon'ble Apex Court in the case of AK Kraipak & Othrs vs. Union of India & Ors. (AIR 1970 SC 150), held as under:

'The concept of natural justice has undergone a great deal of change in recent years.. In the past it was thought that it included just two rules namely

(1) no one shall be a judge in his own case (*Nemo debet esse judex propria causa*) and (2) no decision shall be given against a party without affording him a reasonable hearing (*audi alteram partem*). Very soon there- after a third rule was envisaged and that is that quasi- judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice.

The aforesaid decision was followed by this Court in K.I. Shephard & Othrs. Vs. Union of India & Othrs. (AIR 1988 SC 686) vide paras 12-15). It was held in this decision that even administrative acts have to be in accordance with natural justice if they have civil consequences. It was also held that natural justice has various facets and acting fairly is one of them.'

18. It is further clear that rules of natural justice are not codified nor they are unvarying in all circumstances. Rather, they are flexible. They may however be summarized in one word 'fairness'. In other words, what they require is fairness by the authority concerned. Of course, what is fair would depend on situation and the facts and circumstances of the case. Since no formal enquiry was initiated nor any show cause notice/memo was served issued to the workman, in such a situation, onus was upon the management to justify the circumstances under which services of the workman were dispensed with. In this regard, reliance was placed on Sudershan Rajput vs UP State Road Transport Corporation (2015) 2 SCC 317) wherein services of a driver of the Corporation was terminated on account of – accident. Labour Court held termination amounts to retrenchment and there is non-compliance of provisions of the Act. When no enquiry has been conducted burden of proof lies on the employer, i.e. the Corporation . On facts too, it was held that the Corporation has failed to discharge the said burden in the absence of any formal enquiry. Situation in the case in hand is in no way different inasmuch as no show cause/ memo was issued to the workman regarding his doubtful credentials. It is not even clear from the evidence adduced by the management as to on what date, month and year he has committed the misconduct by leaking confidentiality and committed acts which amounts to act of doubtful integrity. In such circumstances, the Tribunal is of the considered opinion that there is gross violation of principles of natural justice and section 2(oo) of the Act. There is also violation of provisions of section 25F of the Act as no notice of one month or pay in lieu thereof was given to the workman before his retrenchment/termination. Thus, there is violation of provisions of Section 25H of the act, which deals with procedure for retrenchment. Thus, issue No.2 and 3 are also answered in favour of the workman herein and against the management.

Relief

As a sequel to the aforementioned discussion, it is held that action of the management in retrenching/terminating services of the workman herein from 28.04.2006 is illegal, unjustified and against principles of natural justice. The same is also held to be in violation of provisions of section 25F and G of the Act. Necessary corollary to my above discussion is that the workman is entitled to be taken back in service with all consequential benefits from the date of his termination. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : March 14, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 566.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कलावती बाल चिकित्सालय एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 201/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42011/102/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 566.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 201/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kalawati Bal Chikitsalya and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42011/102/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRIAVATAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 201/2015

Shri Sashi Kumar,
C/o Bharitiya Engineering &
General Mazdoor Union,

Bharat Mill, Charkhi Gate Market,
Plot No.1, (near D Block), Karampura,
New Delhi 110 015

...Workman

Versus

1. The Manager,
M/s. Kalawati Bal Chikitsalya,
Bangla Sahib Road,
New Delhi-110 001
2. M/s. Vigilant Security Placement and
Detective Services Pvt. Ltd.,
P-23, Old Double Storey, Lajpat Nagar,
New Delhi-110 024 ...Management

AWARD

Central Government, vide letter No.L-42011/102/2015-IR(DU) dated 08.09.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the workman, Shri Sashi Kumar, entitled for reinstatement with effect from 09.05.2012? If not to what relief are they entitled to?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimant opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.

4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no other alternative, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

March 14, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 567.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कलावती बाल

चिकित्सालय एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 202/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42011/103/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 567.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 202/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kalawati Bal Chikitsalya and Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42011/103/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRIAVATAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 202/2015

Shri Abdul Mahboob S/o Shri Gya Sudin + 1
C/o Bharitiya Engineering &
General Mazdoor Union,
Bharat Mill, Charkhi Gate Market,
Plot No.1, (Near D Block), Karampura,
New Delhi-110 015

...Workman

Versus

1. The Manager,
M/s. Kalawati Bal Chikitsalya,
Bangla Sahib Road,
New Delhi-110 001
 2. M/s. Vigilant Security Placement and
Detective Services Pvt. Ltd.,
P-23, Old Double Storey, Lajpat Nagar,
New Delhi-110 024
- ...Management

AWARD

Central Government, vide letter No.L-42011/103/2015-IR(DU) dated 08.09.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the workmen, Shri Abdul Maboob, S/o Mohd. Gya Sudin & Shri Srikant, S/o Shri Kalloo

Prajapati, entitled for reinstatement with effect from 01.06.2012 & 25.06.2012 respectively? If not to what relief are they entitled to?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimants opted not to file their claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimants as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimants. Despite service of the notice, claimants opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the claimants are not interested in adjudication of the reference on merits.

4. Since the claimants have neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no other alternative, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

March 14, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 17 मार्च, 2016

का.आ. 568.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कलावती बाल चिकित्सालय एंड अदर्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, दिल्ली के पंचाट (संदर्भ सं. 200/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16/03/2016 को प्राप्त हुआ था।

[सं. एल-42011/101/2015-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th March, 2016

S.O. 568.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 200/2015) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Kalawati Bal Chikitsalya and

Others and their workmen, which was received by the Central Government on 16/03/2016.

[No. L-42011/101/2015-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**IN THE COURT OF SHRIAVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO.1, DELHI**

ID No. 200/2015

Shri Shyam Sunder S/o Shri Vasant
C/o Bharatiya Engineering &
General Mazdoor Union,
Bharat Mill, Charkhi Gate Market,
Plot No.1, (Near D Block), Karampura,
New Delhi-110 015

...Workman

Versus

1. The Manager,
M/s. Kalawati Bal Chikitsalaya,
Bangla Sahib Road,
New Delhi-110 001
 2. M/s. Vigilant Security Placement and
Detective Services Pvt. Ltd.,
P-23, Old Double Storey, Lajpat Nagar,
New Delhi-110 024
- ...Management

AWARD

Central Government, vide letter No.L-42011/101/2015-IR(DU) dated 08.09.2015, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the workman, Shri Shyam Sunder, entitled for reinstatement with effect from 01.06.2012? If not to what relief is he entitled to?”

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, claimant opted not to file his claim statement with the Tribunal.

3. On receipt of the above reference, notice was sent to the claimant as well as the management. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of the notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf. Thus, it is clear that the claimant is not interested in adjudication of the reference on merits.

4. Since the claimant has neither put in his appearance nor has he led any evidence so as to prove his cause against the management, as such, this Tribunal is left with no other alternative, except to pass a ‘No Dispute/Claim’ award. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

March 14, 2016

A. C. DOGRA, Presiding Officer